

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner alleges that he was born in
Huntington, New York, and that he has lived and worked (and

paid taxes) in the U.S. all his life. However, he has no birth certificate or passport.

3. Despite the Department's assistance in contacting the birth and health records offices of both the city of Huntington and the State of New York, the petitioner has been informed by those offices that they have no record of his birth.

4. The petitioner has been similarly unsuccessful in obtaining any record of his birth or identity from the hospital where he thinks he was born or through the U.S. Census Bureau.

5. The petitioner maintains that he has no surviving family members and that he has no contact with or knowledge of any childhood friends, neighbors or acquaintances who could vouch for the fact he was born in the U.S.

6. Although the Department was willing to consider a police record of his citizenship, the petitioner concedes that the information in the record in question was based solely on his own self-reporting of his citizenship to the police at that time.

ORDER

The Department's decision is affirmed.

REASONS

Unlike some other benefit programs (including Food Stamps, for which the petitioner has been found eligible), VHAP has a requirement that recipients be a "citizen or national of the United States" or a "qualified alien". W.A.M. §§ 4001.3 and M170.2. The regulations further require that an applicant for VHAP must "sign a declaration" of citizenship "and . . . provide documentation of citizenship or immigration status and identity" (emphasis added).

The regulations go on to identify and describe in detail the type of "evidence" that is deemed to be "acceptable documentation of citizenship and identity". Id. § M170.22. As noted above, the hearing in this matter was continued several months, during which time it can fairly be said the petitioner and the Department exhausted all the potential applicable provisions in the above regulation (including birth, census, police and hospital records, and potential "declarations" from individuals who may have known of the petitioner's birth).¹

Unfortunately, it is clear that the petitioner, despite his and the Department's reasonable best efforts, is unable

¹ The petitioner is free to investigate the existence of school records.

to independently verify his citizenship. Although they produce a harsh result in this matter, absent any argument that the citizenship provisions of the Vermont VHAP and/or Medicaid programs (which are based on provisions in federal law) are unconstitutional, the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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